

REMARKS

Claims 1-12 and 14-23 are all the claims pending in the application. Previously, claim 13 was canceled without prejudice or disclaimer. New claims 22-23 have been added. Reconsideration and allowance of all the claims are respectfully requested in view of the following remarks.

Claim Rejections - 35 U.S.C. § 112

The Examiner rejected claims 1-12 and 14-19 under §112, 1st paragraph, as failing to comply with the written description requirement. Additionally, the Examiner rejected claims 1-12, 14-19, and 21, under §112, 2nd paragraph, as indefinite.

More specifically, the Examiner took objection with the description of the piston rods as being “at least substantially fixedly oriented with respect to the upper frame unit” and as “tip[ping] the upper frame independently of at least two of the other three lifting units”. Applicants have amended claims 1, 11, and 16, in a manner believed to overcome this rejection. Specifically, the latter phrase has been removed from the independent claims.

Further, the former phrase, “at least substantially fixedly oriented with respect to the upper frame unit”, has been amended to set forth that the piston rod is “oriented substantially orthogonal to the upper frame unit when in a non-extended position”. Support for this new phrase is found in the specification at least at: paragraph [014], which states that “FIG 2 shows a part of a motor vehicle test stand according to the invention, illustrating in particular the important features of the invention.”; paragraph [017], which describes that “the piston rod 15 is in the non-extended position, as shown in FIG 2”; and FIG 2 itself, showing the piston rod 15 oriented substantially orthogonal to the upper frame unit 6.

Although the phrase “piston rod 15 is oriented substantially orthogonal to the upper frame unit 6 when in its non-extended position” does not appear word-for-word in the specification, that is not the test for support under §112, 1st paragraph. Instead, the newly added

claim limitations can be supported in the specification through express, implicit, or inherent disclosure.¹ Additionally, applicant can show possession of the claimed invention by describing the claimed invention with all of its limitations using such descriptive means as words, structures, figures, diagrams, and formulas that fully set forth the claimed invention.²

Claim Rejections - 35 U.S.C. § 102

The Examiner rejected claims 1, 2, 8, 9, 11, 12, 14, 15, and 21, as being anticipated by US Patent 2,929,519 to Taylor (hereinafter Taylor). Applicants respectfully traverse this rejection because Taylor fails to disclose all of the elements as set forth and arranged in the claims.

Claim 1 sets forth a test stand for motor vehicles, having a tipping device comprising four lifting units, each of the lifting units including a respective piston rod oriented substantially orthogonal to the upper frame unit when in a non-extended position.

One exemplary embodiment, as shown in Figs. 1 and 2, consistent with that set forth in claim 1 is a test stand for motor vehicles, having a tipping device comprising four lifting units 7-10, each of the lifting units including a respective piston rod 15 oriented substantially orthogonal to the upper frame unit 6 when in a non-extended position. See, also, paragraphs [014 - 017].

In contrast to that set forth in claim 1, Taylor discloses an elevating trailer wherein the hydraulic actuator 48 is oriented substantially parallel to the upper frame 16 when the hydraulic actuator 48 is in its non-extended position. See, for example, Figs. 5 and 6, wherein the frame 16 is in its lower-most position when the hydraulic actuator 48 is in its non-extended position.

Accordingly, Taylor fails to anticipate claim 1. Independent claim 11 includes features analogous to those set forth in claim 1 regarding the orientation of the piston rod relative to the upper frame unit when the piston rod is in its non-extended position. Accordingly, for reasons

¹ See MPEP § 2163(I)(B).

² *Lockwood v. American Airlines, Inc.*, 107 F.3d 1565, 1572, 41 USPQ2d 1961, 1966 (Fed. Cir. 1997).
See also MPEP § 2163 (I).

analogous to those set forth with respect to claim 1, Taylor fails to anticipate independent claim 11. Likewise, Taylor fails to anticipate dependent claims 2, 8, 9, 12, 14, 15, and 21.

Claim Rejections - 35 U.S.C. § 103

The Examiner rejected claims 16-19 under §103(a) as being unpatentable over Taylor. Applicants respectfully traverse this rejection because Taylor fails to teach or suggest all the elements as set forth and arranged in the claims.

Claim 16 includes features analogous to those set forth in claim 1 regarding the orientation of the piston rod relative to the upper frame unit when the piston rod is in its non-extended position. Accordingly, for reasons analogous to those set forth above with respect to claim 1, Taylor is deficient.

The Examiner asserts that it would have been obvious to one having ordinary skill in the art that the upper frame unit of Taylor could be used to secure a motor vehicle. However, even assuming that this was true, such modification of Taylor would still not cure the above-noted deficiencies in Taylor.

In light of the above, Taylor fails to render obvious Applicants' independent claim 16. Likewise, this reference fails to render obvious the dependent claims 17-19.

Allowable Subject Matter

Applicants thank the Examiner for indicating that claim 20 is allowable.

New Claims

Claims 22 and 23 have been added. Claim 22 is supported by the specification at least at paragraphs [019, 020, and 024]. Claim 23 is similar to previously presented claim 17, but depends from claim 1 instead of from claim 16.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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